HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No. 27082 of 1995

Between:

Manjunath Fruit Company, represented by
its Proprietor Sri S.Raju, Hyderabad .. Petitioner

AND

The Person-in-charge,
Hyderabad Agricultural Market Committee,
Hyderabad and another .. Respondents.

Counsel for the petitioner: Sri P.Gangaiah Naidu

Counsel for Respondent No.1: Sri V.V.N.Narayana Rao

Counsel for Respondent No.2: The Government Pleader for
Agriculture.

Dated: April 12, 2006

O R D E R:

In this petition, the petitioner has prayed for issuance of a mandamus to the respondents to accept demand draft of Rs.25,000/- and regularize its possession of premises bearing
No. A/1/1 in Wholesale Fruit Market, Gaddiannaram.

The genesis of the aforementioned prayer made by the petitioner lies in the assertion that the premises in question had been allotted to him by the then Chairman of the Market Committee, Gaddiannaram and person-in-charge of the

Agricultural Market Committee had, vide letter dated 23-7-1994 addressed to Director of Marketing, Government of Andhra Pradesh, Hyderabad favourably recommended its case for regularization of occupation.

On April 5, 2006, the Court had, after hearing arguments of the learned counsel for the petitioner, adjourned the case for today so as to enable him to produce the policy decision taken by the State Government and/or Directorate of Agricultural Marketing in the matter of leasing out the market area in Gaddiannaram.

By taking advantage of the adjournment, Shri V.Raghunath, Secretary, Agricultural Market Committee, Gaddiannaram has filed counter-affidavit and several documents running into 23 pages. Copies of the counter-affidavit and documents have been supplied to the learned counsel for the petitioner who has also filed reply affidavit of the representative of the petitioner.

Further arguments have been heard and record perused. Sri P.Gangaiah Naidu, learned counsel for the petitioners says that in view of the averments contained in the affidavit of Sri V.Raghunath, his client may be permitted to withdraw the writ petition with liberty to submit an application to the Market Committee and/or the Directorate of Agricultural Marketing for allotment of the premises in accordance with relevant rules and instructions and a direction be issued to the concerned authority to decide the application within the specified time frame. Sri Naidu gave out that in a large number of other cases, the wholesale commission agents had been allowed to occupy different parcels of premises without formal allotment and, therefore, similar action should be taken by the Market Committee in their cases as well. Sri V.V.N.Narayana Rao, Advocate for the Market Committee says that he does not have any objection if the petitioner is granted leave to withdraw the writ petition with liberty to file an application before the concerned authorities of the Market Committee and/or the Directorate of Agricultural Marketing, for allotment of plot/godown etc. He, however, submitted that there is no provision for regularization of possession of the petitioner, because the same had not been allotted to it by the competent authority in accordance with relevant orders and circulars issued by the Government. According to Sri Narayana Rao, the premises in the wholesale market could have been allotted to the petitioner and other similarly situated persons only by way of auction and not otherwise and as a matter of fact, no

allotment was made in favour of the petitioner.

I have considered the request made by Sri Gangaiah Naidu in the backdrop of statement made by the learned counsel for the Market Committee and feel that it will be in the interest of justice to grant leave to the petitioner to withdraw the writ petition with liberty to file an application for allotment of premises (shop/shed/godown) within the Wholesale Fruit Market at Gaddiannaram and a direction be issued to the concerned authority to decide the same in accordance with law and orders/instructions, if any, issued by the State Government in that regard. Ordered accordingly.

While disposing of the writ petition in the manner indicated above, I deem it proper to observe that the petitioner must file the required application within seven days from today. This would necessarily mean that if the petitioner fails to file the application within seven days, the authorities of the Market Committee shall be entitled to forcibly evict it from the premises bearing No. A/1/1 in the Wholesale Fruit Market at Gaddiannaram.

If the petitioner makes an application within seven days, then the same shall be considered and decided by the competent authority within a maximum period of one month. While disposing of the application, the concerned authority shall keep in view the relevant statutory provisions as well as the orders and instructions issued by the Government, which, as mentioned above, envisage the allotment of premises by way of auction. It is expected that the concerned authority will not adopt any device or mechanism which may lead to frustration of the doctrine of equality enshrined under Article 14 of the Constitution of India.

If, on a consideration of the application made by the petitioner, the competent authority decides to allot the premises by auction, then all persons similarly situated who may have been illegally permitted to occupy the premises should be given liberty to participate in the process of auction and the premises be allotted to the highest bidder.

If the petitioner is found to be the highest bidder for the premises in its occupation, then the allotment made in its favour would take effect from the date of acceptance of the bid.

12th April, 2006 G.S.SINGHVI, C.J.

Note:

The Court officer is directed to give attested copy

the order to learned counsel for the parties.

/B.O/

GRR/VTV